ABN AMRO Electronic Banking Conditions

General section

1 Our obligations

The Electronic Banking Conditions (EBC) apply to our Electronic Banking Services. We will provide these Electronic Banking Services to you in accordance with the EBC.

2 Your obligations

2.1 When you use our Electronic Banking Services, you declare and guarantee that:

(a) you have all the necessary authorisations, powers and approvals to comply with your obligations under the EBC;

(b) you will be legally bound by the EBC, and each Instruction you give to us; and

(c) in complying with the EBC or issuing an Instruction, you are not breaching any law, regulation, guideline, judgment, contract or other document applying to you or to all or part of your assets, or any provision of your statutes.

2.2 You will check the transaction and other information provided by our Electronic Banking Services system as soon as possible, and inform us immediately of any errors which you find. We will not be liable for any Loss caused by your failure to inform us of an error, or if you do inform us but we could not reasonably have been expected to prevent the Loss in the circumstances.

2.3 You will comply with all procedures and other requirements laid down in the User Manual(s) for the Electronic Banking Services, and will not make the contents of the manual(s) available to third parties.

2.4 We will retain the intellectual property rights to all of the Electronic Banking Services, and you will, on request, provide all reasonable cooperation with us in asserting these rights.

3 Use of the Electronic Banking Services

You will indemnify us against any loss as a result of:

(a) your use of or failure to use these Electronic Banking Services, including but not limited to breaches of the EBC, our rights, or relevant laws, and failure to maintain the confidentiality of customer authentication codes;

(b) any third-party claim as a result of or in connection with your use of or failure to use the Electronic Banking Services;

unless this loss is due to our deliberate actions or gross negligence.

4 Instructions

4.1 You are liable for all Instructions which you give us, and for complying with any agreements made between us as a result.

4.1.1 We may refuse to carry out an Instruction, and do anything else which we deem necessary in the circumstances, including cancellation of your access rights and blocking your access to the Electronic Banking Services, if we have reason to believe that:

(a) the Instruction was not given by you;

(b) the Instruction is not clear;

(c) by carrying out the Instruction, we would be breaching any laws, regulations, guidelines and/or judgments which we believe to be applicable to us;

(d) we might be in breach of any contractual obligations;

(e) you are using the services for unauthorised purposes; or

(f) security information has or might come into the hands of unauthorised parties, or if any other security breach occurs;

in which case we will inform you as soon as reasonably possible that we have not carried out the Instruction.

4.2 You will ensure that the Instructions you give to us are correct, and will follow all procedures of which we inform you by e-mail, post or in person.

4.3 If you wish to cancel an Instruction you have given us, we will make every reasonable effort to comply, but may not be held liable if we are unable to do so.

4.4 We may record your Instructions to ensure that we have a full overview of all those which we receive. You will give your consent that we monitor the Electronic Banking Services in order to improve our quality of service.

5 Your communication and security obligations

In addition to your obligations under other terms agreed with us, you will in any case comply with the following security obligations:

(a) You will take reasonable measures to prevent that, for whatever reason, an Instruction or other communication in your name is issued to us incorrectly and/or without your consent, resulting in Loss. You will comply strictly with all our requirements (with regard to users, safety and procedures) concerning communication, and (the use of) communication networks, Customer Authentication Systems, User Manuals, information media.

(b) You will carefully and safely use Communications networks, and will use only suitable, secure hardware and software including the latest security measures, antivirus software, and firewalls to prevent viruses, spyware, phishing and other abuse.

(c) You will take appropriate security measures to

prevent unauthorised use of tools such as Customer Authentication Systems, as well as maintain the confidentiality of (temporary and permanent) passwords and codes of customer authentication systems, prevent these from being used by unauthorised persons, and not allow Customer Authentication Systems and any confidential data that constitute part thereof to be copied.

(d) You will inform us as soon as you become aware that any Instruction or other communication in your name has been issued to us incorrectly or without your consent. You will in any case notify us as soon as you are aware that unauthorised use may have been made of Customer Authentication Systems, or if a password or code of a Customer Authentication System is known to or used by an unauthorised party, or if a copy may have been made of a Customer Authentication System or confidential data that form part thereof, or if any other security-related incident occurs. You will comply with any rules we give you in order to minimise the loss. Moreover, you will cooperate to clarify the facts and report the incident at our request.

6 Our communication and security obligations

The following are our security obligations to you:

(a) We will make every reasonable effort to ensure that any Instruction or other communication issued to us in your name incorrectly and/or without your consent are not carried out.

(b) We will ensure that our communication networks meet reasonable standards of security given the purposes for which they are used.

(c) We will ensure that our Customer Authentication Systems meet reasonable standards of security given the purposes for which they are used.

(d) As soon as we are informed of a security breach as specified in article 5 (d), we will immediately take all reasonable measures to prevent further unauthorised use.

In carrying out our security obligations, we assume that you will comply fully with your security obligations as specified in article 5.

7 Distribution of risks with regard to communication

Unless otherwise specified by mandatory law, the liability for any losses resulting from an Instruction or other communication in your name which is issued to us incorrectly or without your consent will be as follows:

(a) If we have failed to comply with any of our (security) obligations to you, we will bear any Losses for which we are liable as a result.

(b) If you have failed to comply with any of your (security) obligations to us, you will bear any Losses for which you are liable as a result.

(c) Provided we have complied with our (security) obligations, you will be liable for any Losses if:
- in communicating, (unauthorised) use has been made of Customer Authentication Systems provided to us by you (or your User); and/or
- we have reason to believe that the communication was sent to us incorrectly or without your consent.

8 Force majeure, indirect and consequential loss

8.1 We shall not be liable for any failure to carry out your Instructions or to provide the Electronic Banking Services due to reasons beyond our control, including but not limited to:

(a) the unavailability of any Communication network or other communication system (including the internet), or deformation of data, the loss of data during transmission or incorrect communication of data for any reason whatsoever, power cuts, faults in hardware, in data processing systems, communications systems or transmission systems;

(b) a defect in a payment system chosen by you or us; or

(c) circumstances that do not enable us to provide Electronic Banking Services due to strikes or similar actions.

8.2 We shall not be liable for any indirect or consequential loss which you suffer, except as a result of our deliberate actions or gross negligence.

9 Charges and taxes

9.1 You will pay any charges and costs which we agree in writing from time to time, and all taxes that apply to these. In order to prevent misunderstandings: this includes all taxes on goods and services, including VAT and similar taxes, relating to any amounts due under the EBC.

9.2 Unless otherwise agreed in writing, we may enter any such amounts payable to your Accounts with us.

10 Changes to the ECB

10.1 We may change or add to the ECB at any time, and/or temporarily or permanently discontinue specific Electronic Banking Services, in which case we will attempt to give you at least 30 days' prior notice unless this cannot reasonably be expected of us in the circumstances. Such changes and additions will be binding to both you and us.

10.2 Changes as a result of changes in legislation and regulations may come into effect immediately.

11 Service of notice

11.1 All notifications under the EBC may be served electronically, by post or in person at the address

you have provided to us.

11.2 If we serve a notification electronically, this will be deemed to have been delivered as soon as we have made this notification accessible for you through the Communication Network. In case of notification by letter or in person, it will be deemed to have been delivered at the moment of actual receipt.

12 Assignment of rights and obligations

Neither party may assign its rights, claims and/or obligations under these EBC without the other party's prior written consent. However, we reserve the right to assign our rights or obligations to one or more of our Associated Companies without your consent, and – if necessary – you will cooperate in such an assignment.

13 Confidentiality and use of information

13.1 We will not disclose your Confidential Information to third parties without your consent, unless:

(a) we are required by legislation and regulations to do so; or

(b) we are allowed by law to do so, including – but not limited to – disclosures in relation to court proceedings.

13.2 In addition to the disclosure referred in Section 13.1, you give us your consent to disclose your Confidential Information to:

(a) our Associated Companies, including – but not limited to – those which carry out technical processing of data and are centralised;

(b) our professional advisers; or

(c) third parties insofar as these are directly involved/necessary in providing Electronic Banking Services used by you.

13.3 Disclosing your Confidential Information to the parties specified in Section 13.2, may imply it is sent to countries which do not offer the same level of protection as the European Union. We will make every reasonable effort to ensure that these parties to which we have disclosed your Confidential Information are aware that the information is confidential.

14 Termination

14.1 Either party may at any time terminate the EBC, or a specific Electronic Banking Product or service, by giving 30 days' written notice to the other party (or a longer period specified in the notice).

14.2 Either party may terminate the EBC with immediate effect and without notice if:

(a) it has reasonable grounds to believe that the other party is seriously or repeatedly acting in contravention of the EBC;

(b) the other party is unable to pay or admits to being unable to pay its debts when they are due, or in case of (voluntary or involuntary) moratorium on payment, bankruptcy, liquidation, reorganisation (except reorganisation to improve its solvency), administration or similar statutory regulations; or

(c) it becomes aware of circumstances which are likely to result in one of the situations referred to under (b).

14.3 This termination shall not be retrospective, and all existing transactions, rights and obligations shall remain in force. We will refund a pro rata share of any prepaid costs and fees for the period after the termination, unless we have terminated the EBC because you have seriously or repeatedly acted in contravention of the EBC. Sections 3, 7, 8 and 13 shall remain in force after the EBC is terminated.

15 General provisions

15.1 If any provision of the EBC is declared to be revoked, voidable or unenforceable, the other provisions of the EBC shall remain in full force.

15.2 If either party fails to exercise any of its rights or recourses under these conditions immediately or at all, this shall not constitute a waiver of that right or recourse.

15.3 These Electronic Banking Services may be provided by third parties, including our associated companies, agents or subcontractors. You acknowledge that the EBC (including those provisions which indemnify us from or limit our liability) also apply to third-party services.

15.4 In the event of a contradiction between the provisions of this general section of the EBC and the Annexes, the provision as laid down in the Annexes shall prevail.

16 Definitions

16.1 The definitions below have the following meanings:

ABN AMRO EBC and Electronic Banking Conditions: the general part, the specific conditions for Electronic Banking Services, the security procedures for the specific Electronic Banking Services, and the User Manual which we have provided to you as part of the EBC;

Account: the account(s) held by you or third parties with ourselves or another bank, and in relation to which we have agreed that you shall use our Electronic Banking Services;

Annexes: those Annexes that from time to time are attached to these EBC, listing our products and services and the relevant Communication Network;

Associated company:

(i) an associated company; and

(ii) a service provider which assists us in providing our customers with Electronic Banking Services on a contractual basis;

Communication Network: the Communication

network(s) or system(s) as described in the Annexes;
Confidential Information: all information which you provide to us in relation to our Electronic Banking Services (including information concerning any Account), which is not generally available;
Customer Authentication: a resource provided by us allowing you to identify yourself in relation to the Electronic Banking Services, log in and send and/or authorise messages to us, including passwords, PIN codes, bank cards, smart cards or combinations of these;
Electronic Banking Services: the Electronic Banking Services listed in the Annexes and purchased by you;
Electronic Banking Services Agreement: the document which you are required to complete and sign if you wish to use our Electronic Banking Services;
Electronic Signature: electronic data attached to or logically associated with an Instruction or other electronic data, used to verify the authenticity of that Instruction or data;
Instruction: an Instruction that is verified using customer authentication, and is sent to us via our Communication network and processed by the Electronic Services system;
Letter of Credit: a Standby Letter of Credit or a Documentary Letter of Credit;
Loss: damage, compensation, costs, expenses, loss, liability or claim for damages;
Software: any computer programs which we provide to you for the purpose of using our Electronic Banking Services;
User: your employee or a third party designated by you to use the Electronic Banking Services;
User Manual: any manual(s), and the amended versions of these manuals issued from time to time, which we provide to you electronically, by post or in person, containing information, procedures and requirements relating to the Electronic Banking Services;
We: ABN AMRO Bank NV and its legal successors; our shall be defined accordingly;
You: the customer who has accepted the EBC; your is defined accordingly.

16.2 Terms used in the singular also include the plural, and vice versa.

17 Applicable law

17.1 The EBC are subject to Dutch law.

17.2 The Dutch courts shall have sole jurisdiction in any dispute in relation to the EBC, and neither party shall oppose such jurisdiction at any time. This article is exclusively for our benefit, so that, despite the reference to exclusive jurisdiction, we may bring claims before any other competent court.